APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/436,796	11/08/1999	STEVEN R. DONOVAN	RIC99060	7148

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MCI, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON, DC 20036

EXAMINER
SEFCHECK, GREGORY B

ART UNIT	PAPER NUMBER
2662	

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)
Office Action Summary		09/436,796	DONOVAN ET AL.
		Examiner	Art Unit
		Gregory B Sefcheck	2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 January 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 November 1999* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All   b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
　　　　　application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date *20, 23, 24*.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Reopening of Prosecution

1.   In view of the Reply Brief filed on 10/11/2002, PROSECUTION IS HEREBY

REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the

following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply

under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied

by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130,

1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Drawings

2.   The drawings are objected to because top margins of Figs. 1, 2, and 4 are

improper. The line quality of the Figs. 1-4 are also poor. Corrected drawing sheets in

compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid

abandonment of the application. Any amended replacement drawing sheet should

include all of the figures appearing on the immediate prior version of the sheet, even if

only one figure is being amended. The figure or figure number of an amended drawing

should not be labeled as "amended." If a drawing figure is to be canceled, the

appropriate figure must be removed from the replacement sheet, and where necessary,

the remaining figures must be renumbered and appropriate changes made to the brief

description of the several views of the drawings for consistency. Additional replacement

sheets may be necessary to show the renumbering of the remaining figures. The

replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as

per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the

changes are not accepted by the examiner, the applicant will be notified and informed of

any required corrective action in the next Office action. The objection to the drawings

will not be held in abeyance.

Claim Objections

3.   Claims 2 and 14 are objected to because of the following informalities:

-   Regarding Claim 2,

It appears that repeating steps (d) to (g) as stated in claim 2 should be changed

to repeating steps (e) to (g) in order for the operation of the method to be logical

and to be consistent with the similarly claimed method of claims 19 and 20.

-   Regarding Claim 14,

Claim 14 is not consistent with independent claim 1, from which it depends. In

Claim 1, a request failure response is not received from the at least one proxy

server, but from the redirect server. It appears "the at least one proxy server"

should be replaced with "the redirect server".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5.   Claims 6, 11, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

-     Claims 11 and 12 are indefinite because it is not clear what is meant by the "associated time value" of a gateway's recorded status and the "current absolute RS time" used in comparison for determining whether a gateway address is added to a routing list.

-     Claim 6 is confusing because it is not logical to count a number of received requests subsequent to the call setup request that is being received. In other words, how can you count requests received after a request that hasn't yet been received itself?

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1, 2, 5-7, 15-17, 19, 20, and 22-28 are rejected under 35 U.S.C. 103(a)

as being unpatentable over White et al. (US006069890A), hereafter White, in view of

Thomas et al. (US006487283B2), hereafter Thomas.

-   In regards to Claims 1, 2, 6, 15, 16, 19, 20, 22, 23, and 26,

White discloses a system and method where public switched telephone networks

utilize program controlled switching systems arranged in an architecture with the

Internet to provide telephone services (Abstract; claim 1,16,19 – method/system for

routing calls to an available destination gateway to establish a call in a telecom network

between source user agent and destination user agent over a path supported by a

telephone network and IP network).

Referring to Fig. 4, White discloses the ability to establish a call between a source

user 100 and destination user 118 located in different public switched telephone

systems (LEC 102 and 114) through the Internet 106, which is shown to have multiple

gateway routers 104/116/120 for ingress and egress. The ingress gateway router 104

acts as a proxy server for establishing a call from the source user by querying the

Internet Address Database 112 (redirect server) for the address of the particular

destination gateway (Col. 7-8, lines 45-20; claim 1,16 – IP network includes plurality of

ingress and destination gateways, proxy server, and redirect server).

White shows that source 100 initiates a call by dialing the directory number of the

called party 118 (destination; Col. 8, lines 30-32; claim 1,16,19 – receiving setup

request that identifies a destination user agent in a PSTN at proxy server from a source

user agent in a PSTN).

The LEC 105 of the source 100 connects the call to the gateway router 104, which

then queries the Internet address database 112 to obtain the Internet address of the

destination gateway 116 (Col. 8, lines 32-62; claim 1 – forwarding request to redirect

server; claim 1,16 – receiving routing information or a request failure response from the

redirect server).

Using the address information from the Internet address database 112, the gateway

router 104 uses the address to communicate the call connection request to the

destination gateway router 116, which can communicate with the destination user 118

through LEC 114 (Col. 8, lines 62-65; claim 1,19 – proxying request by the proxy server

to a destination gateway selected from the routing information received from the redirect

server, selected destination gateway can communicate with a PSTN including the

destination user agent).

White does not explicitly disclose waiting a predetermined time for a response from

the destination gateway, whereupon the connection is established with the responsive

gateway or the request is repeatedly sent to succeeding gateways capable of

communicating with the destination user until the connection is made.

Thomas discloses an IP routing engine that is able to locate eligible (in-service)

destination gateways capable of terminating a voice over IP call by working through a

prioritized list of eligible destination gateways until the call is established. Thomas

further shows that predetermined preferences such as delay tolerance and number of

attempts for establishing the call may be setup through the system's clearinghouse 50

(network management system; Abstract; Fig. 2; Col. 6-8, lines 37-64; claim 1,19 – upon

proxying, waiting for a response from the selected destination gateway for a

predetermined time; claim 1,19 – upon receiving the response within a predetermined

time, establishing a communication session using the selected destination gateway;

claim 1,19 – if response is not received within predetermined time, sending the call

setup request to a succeeding destination gateway selected from the routing information

and reporting failure of the selected destination gateway to the redirect server, wherein

the succeeding gateway can communication with a PSTN including the destination user

agent; claim 2,20 – repeating the method steps of proxying/waiting until a destination

gateway is determined to be available or until all destination gateways from the routing

information have been determined to be unavailable; claim 6 – counting a number of

received requests subsequent to call setup request being received at the proxy server;

claim 15 – resending the setup request to the selected destination gateway a

predetermined number of times when the response is not received within the

predetermined time; claim 16 – network management system in communication with

proxy server for receiving and storing status changes of destination gateways; claim 22

– status of destination gateway determined to be available is in-service; claim 23,26 –

routing information identifies at least one destination gateway that can handle the call

according to status information tracked by the redirect server)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system and method of White by providing a prioritized list of eligible destination gateways for establishing a call between a source and a particular destination, as taught by Thomas, thus increasing the success rate of completing the call if the optimal destination gateway is unavailable and also enabling routing options based on availability and pricing.

- In regards to Claim 5,

White discloses a system and method where public switched telephone networks utilize program controlled switching systems arranged in an architecture with the Internet to provide telephone services that covers all limitations of the parent claims.

White shows that the source user 100 dials "*82" in order to address the subsequent called party digits to the gateway router to be processed as an Internet call (Col. 8, lines 21-44; claim 5 – receiving setup request at the proxy server includes addressing the setup request to a proxy address of the proxy server).

- In regards to Claims 24, 25, 27, and 28,

White discloses a system and method where public switched telephone networks utilize program controlled switching systems arranged in an architecture with the Internet to provide telephone services that covers all limitations of the parent claims.

White shows that the request for establishing the call sent from the gateway router 104 to the destination router 116 specifies the IP address of the destination gateway (Col. 8-9, lines 45-10; claim 24,27 – setup request identifies the destination user agent by specifiying the address of the destination user agent; claim 25,28 – address includes the real IP address of the destination user agent).

- In regards to Claims 7 and 17,

White discloses a system and method where public switched telephone networks utilize program controlled switching systems arranged in an architecture with the Internet to provide telephone services that covers all limitations of the parent claims.

White does not explicitly disclose a proxy server comprising a SIP proxy server.

The Examiner takes Official Notice that it has been common practice in the art to utilize session initiation protocol (SIP) and other similar internetworking protocols, such as H.323, for establishing voice over IP calls between different domains (claim 7,17 – proxy server comprises a SIP proxy server).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method and system of White by utilizing a SIP proxy server, which, is an industry-standard protocol for establishing voice over IP calls between different domains, thereby providing the method and system of White with compatibility and address translation between the source and destination PSTNs and the Internet domain.

8.   Claims 3, 4, 8-10, 13, 14, 18, and 21 are rejected under 35 U.S.C. 103(a) as

being unpatentable over White in view of Thomas as applied to claims 1, 16, and 19

above, and further in view of Iwama et al. (US006600735B1), hereafter Iwama.

-    In regards to Claims 3, 4, 8-10, 13, 14, 18, and 21,

White discloses a system and method where public switched telephone networks

utilize program controlled switching systems arranged in an architecture with the

Internet to provide telephone services that covers all limitations of the parent claims.

Neither White nor Thomas discloses recording the status of a destination

gateway as out-of-service in a status information table when a response is not received

within a predetermined time. White and Thomas also do not explicitly show a proxy

server comprising an H.323 gatekeeper.

Iwama discloses an Internet telephone connection method for performing call

connection to a PSTN through a gateway device (Col. 1, lines 7-10). Referring to Figs.

7 and 10, Iwama shows that the service status of a group of potential destination

gateways is determined for completing a call to a destination utilizing an H.323

gatekeeper. When a preferred gateway is unavailable for connecting the call, it is

registered to the source in a network database as "out of service" (Col. 4, lines 22-48;

Col. 10, lines claim 3,21 – recording a destination gateway status as out-of-service if the

response is not received within the predetermined time; claim 4 – recording destination

gateway status as out-of-service in a gateway information table stored within the

redirect server; claim 8,18 – proxy server comprises an H.323 gatekeeper; claim 9 –

responding to the forwarded setup request from the proxy server received at the redirect server includes determining the status of a group of destination gateways; claim 10 – status is one of in-service or out-of-service; claim 13 – sending a message from the proxy server to a network manager to record the status of a destination gateway; claim 14 – forwarding a request failure response to the source user).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method and system of White in view of Thomas to record the status of a destination gateway as "out of service" in a network database if a connectability problem prevents a response to the proxy request within a predetermined time or "in-service" if the connection is properly established and functional, as taught by Iwama. This would prevent subsequent attempts to unavailable gateway devices until the connectability problem is corrected and the gateway can be returned to "in service" status.

Allowable Subject Matter

9.   Claims 11 and 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

10.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Kia et al. (US006404870B1) discloses a method and apparatus for authorization based phone calls in packet switched networks

- Cave et al. (US006404746B1) discloses a system and method for packet network media redirection

- Nadeau (US006240449B1) discloses a method and apparatus for automatic call setup in different network domains

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory B Sefcheck whose telephone number is 571-272-3098. The examiner can normally be reached on Monday-Friday, 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 571-272-3088. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GBS
1-3-2005

HASSAN KIZOU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600